

**IN THE UNITED STATES DISTRICT COURT
FOR THE MIDDLE DISTRICT OF PENNSYLVANIA**

PERNELL JOHNSON,	:	CIVIL ACTION NO. 1:08-CV-1063
	:	
Plaintiff	:	(Judge Conner)
	:	
v.	:	
	:	
WARDEN DOMINICK DEROSE, et al.,	:	
	:	
Defendants	:	

ORDER

_____AND NOW, this 21st day of October, 2008, upon consideration of defendants' motion to dismiss (Doc. 13), and it appearing that plaintiff failed to oppose the motion in accordance with the local rules of court, and the Third Circuit having held that consistent with local rules of court, a motion to dismiss may be granted without a merits analysis "if a party fails to comply with the rule after a specific direction to comply from the court," Stackhouse v. Mazurkiewicz, 951 F.2d 29, 30 (3d Cir. 1991), and plaintiff having been warned *via* order of this court (Doc. 19) that his failure to file an opposition brief on or before October 15, 2008, would result in the motion being deemed unopposed and an order granting the motion to dismiss without a merits analysis, see L.R. 7.6, and it further appearing that as of the date of this order plaintiff has failed to file his opposition brief, it is hereby ORDERED that:

1. Defendants' motion to dismiss (Doc. 13) plaintiff's complaint is DEEMED unopposed pursuant to L.R. 7.6 and is GRANTED without a merits analysis. Stackhouse v. Mazurkiewicz, 951 F.2d 29, 30 (3d Cir. 1991)

2. The Clerk of Court is directed to CLOSE this case.
3. Any appeal from this order is DEEMED frivolous and not in good faith.
See 28 U.S.C. § 1915(a)(3).

S/ Christopher C. Conner
CHRISTOPHER C. CONNER
United States District Judge